UNITED STATES PATENT AND TRADEMARK OFFICE

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SUTHERLAND II
SUTHERLAND, ASBILL & BRENNAN, LLC
999 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER
NGUYEN, TIEN C

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _17 October 2008_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-3,6,7,11-15,18,19,22 and 23_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-3,6,7,11-15,18,19,22 and 23_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _10/17/08_.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   The following is a Final Office action in response to communications received on October 17,

2008. Claims 1-3, 6-7, 11-15, 18-19, and 22-23 have been amended and claims 4-5, 8-10, 16-17 and

20-21 have been canceled. Therefore, claims 1-3, 6-7, 11-15, 18-19, and 22-23 are pending and

addressed below.

2.   A request for continued examination (RCE) under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application AFTER FINAL rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37

CFR 1.17(e) has been timely paid, the FINALITY of the previous Office Action has been

WITHDRAWN pursuant to 37 CFR 1.114. Applicant's submission filed on 02/08/08 has been

entered.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis

for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United
States before the invention thereof by the applicant for patent, or on an international application by another
who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the
invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not

apply when the reference is a U.S. patent resulting directly or indirectly from an international application

filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35

U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4.   **Claims 1-3, 6-7, 11-15, 18-19 and 22-23 are rejected under 35 U.S.C. 102(e) as being**

anticipated by Amalraj et al. (2004/0215560).

As per claims 1 and 13, Amalraj teaches a computer-implemented method and system

comprising:

a communications interface configured to receive a payment request to pay a payee on

behalf of a payor (paragraph 7); and

a processor configured to (abstract):

storing, by a payment service provider processor (payment method engine associates

with a consumer payment service provider processor, Fig.7), in a database (profile database

110, Fig.7), for each of a plurality of payment processing debit options and credit options, a

respective value (rank of different risk levels and/or rank of different cost levels, paragraphs 77,

97 and 98) for each of a plurality of payment processing factors, wherein the plurality of

payment processing factors include at least two of (i) a cost of processing factor (paragraph 98),

(ii) a risk of processing factor (paragraph 97), and (iii) a speed of processing factor (paragraph

98);

receiving, by the payment service provider processor (payment method engine

associates with a consumer payment service provider processor, Fig.7), a payment request to

pay a payee on behalf of a payor (element 224, Fig.11);

determining, by the payment service provider processor based upon the payment

request, a subset of the plurality of payment processing debit options and credit options

applicable to processing the payment request (a subset 230, Fig.11 and paragraph 96);

selecting, by the payment service provider processor, one of the plurality of payment

processing factors based on a preference (selecting the risk factors associates with element

238 and 240 in Fig. 11 based on a financial risk preferences 234, paragraph 97);

determining, by the payment service provider processor, an optimal combination of one

debit option and one credit option from the subset of the plurality of payment processing debit

options and credit options (element 238, Fig.11 and paragraph 97), wherein the determination is

based on evaluating a function applied to each of a plurality of combinations of an applicable

debit option and an applicable credit option (the determination is based on evaluating a function

248 which includes evaluating of operational 242 preferences and risk 234 preferences to select

a 250 most optimum payment method for the payment debit and credit option, Fig.11 and

paragraph 99), wherein the function processes the values for the selected one of the plurality of

payment processing factors for the applicable debit option and the applicable credit option for

each combination of the plurality of combinations (the function 248 processes the values of

batching preferences 244 for payment processing factor operational 242 and debit and credit

payment transactions 238 for payment processing factor risk 234, Fig.11 and paragraph 97, 98);

and

directing payment in accordance with the optimal combination of the one debit option

and the one credit option (directing payment 238 wherein the debit from the consumer funding

account represents good or guaranteed funs, paragraph 97 and Fig.11).

As per claims 2 and 14, Amalraj teaches a method and system wherein the preference

order is associated with determined based upon at least one of the payor (paragraph 29).

As per claims 3 and 15, Amalraj teaches a method and system further comprising prior

to selecting one of the plurality of payment processing factors based on a preference,

determining the preference from a plurality of applicable preferences (determining the

preference good funds 236 from a plurality of applicable financial risk preferences 234, Fig.11

and paragraph 97).

As per claims 6 and 18, Amalraj teaches a method and system wherein the function comprises a sum of the values of the selected one of the plurality of payment processing factors for the applicable debit option and the applicable credit option for each combination of the plurality of combinations producing a total value for each combination, and wherein determining the optimal combination comprises selecting one of the plurality of combinations based on the total value for each combination (the function comprises a sum and/or the total values of debit and credit payment transactions 238 for payment processing factor risk 234, Fig.11 and paragraph 97).

As per claims 7 and 19, Amalraj teaches a method and system wherein the function is a first function, the optimal combination is a first optimal combination, the one debit option is a first debit option, the one credit option is a first credit option, and wherein determining the optimal combination comprises:

identifying a second optimal combination comprising a second debit option and a second credit option, wherein the total value of the first optimal combination equals the total value of the second optimal combination (identifying a second 240 optimal combination, Fig.11 and paragraph 97); and

selecting the first combination based on evaluating a second function using the values of another of the plurality of payment processing factors for each of the first combination comprising the first debit option and the first credit option and the second combination comprising the second debit option and the second credit option (selecting the first combination 238 wherein the values represents good or guaranteed funds, Fig.11 and paragraph 97).

As per claims 11, 12, 22, and 23, Amalraj teaches a method and system wherein the one debit option and the one credit option is one of a draft drawn on a deposit account associated with the payor (element 270, Fig.11 and paragraph 97).

Response to Arguments

5.   Applicant's arguments filed 10/17/08 have been fully considered but they are not persuasive.

In the remarks, Applicant argues that Amalraj does not teach, suggest, or motivate, all the claim

elements of amended independent Claim 1 and 13.

In response to argument, Examiner respectfully disagrees. Amalraj does teach, suggest, or

motivate all the claim elements of amended independent Claim 1 and 13 that include:

a respective value (rank of different risk levels and/or rank of different cost levels, paragraphs

77, 97 and 98) for each of a plurality of payment processing factors;

selecting, by the payment service provider processor, one of the plurality of payment processing

factors based on a preference (selecting the risk factors associates with element 238 and 240 in Fig. 11

based on a financial risk preferences 234, paragraph 97);

determining, by the payment service provider processor, an optimal combination of one debit

option and one credit option from the subset of the plurality of payment processing debit options and

credit options (element 238, Fig.11 and paragraph 97), wherein the determination is based on

evaluating a function applied to each of a plurality of combinations of an applicable debit option and an

applicable credit option (the determination is based on evaluating a function 248 which includes

evaluating of operational 242 preferences and risk 234 preferences to select a 250 most optimum

payment method for the payment debit and credit option, Fig.11 and paragraph 99), wherein the

function processes the values for the selected one of the plurality of payment processing factors for the

applicable debit option and the applicable credit option for each combination of the plurality of

combinations (the function 248 processes the values of batching preferences 244 for payment

processing factor operational 242 and debit and credit payment transactions 238 for payment

processing factor risk 234, Fig.11 and paragraph 97, 98);

Therefore, Examiner maintains that Amalraj does teach and suggest these limitations and anticipate amended independent Claims 1 and 13.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tien Nguyen whose telephone number is (571) 270-5108. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammel can be reached on 571-273-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TN
01/05/2009

/Mary Cheung/
Primary Examiner, Art Unit 3694